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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210559
Party	Defendant East Coast Network Services, LLC
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Submission	Reply in Support of Motion
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Date	05/21/2015
Attachments	ECNetServ Reply Motion to Reopen.pdf(209880 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NetCloud, LLC  
Opposer

v.

East Coast Network Services, LLC  
Applicant

Opposition No. 91210559

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**APPLICANT'S REPLY IN SUPPORT OF APPLICANT'S MOTION  
TO REOPEN DISCOVERY AND TRIAL PERIODS**

In its response to Applicant's motion to reopen, Opposer failed to argue or demonstrate that any prejudice to Opposer would result from reopening the discovery and trial periods in this proceeding, nor did Opposer argue any of the other *Pioneer* factors which govern a motion to reopen, and therefore the Board should grant Applicant's motion as conceded.

Additionally, Opposer has not cited any authority which holds that a motion to reopen must be filed before the Board renders its decision, and in any event Applicant filed a timely motion for reconsideration of the Board's decision and therefore the final decision in this proceeding is still pending. Further, the fact that *Pioneer* was a bankruptcy case is irrelevant because, as explained by TBMP § 509, the *Pioneer* factors governing motions to reopen were adopted by the Board in *Pumpkin Ltd. v. The Seed Corps*, 43 U.S.P.Q.2d 1582 (TTAB 1997).

Applicant also notes that during its case-in-chief Opposer represented to the Board that it uses Facebook and Twitter to publicly promote its services under the NETCLOUD name, yet in its response Opposer failed to provide the actual reason why it abruptly stopped using its social media platforms just prior to its trial depositions, despite the fact that Opposer is the party that possesses this information. Instead, Opposer merely provides a hypothetical and implausible explanation which it deems "entirely possible."

Accordingly, Applicant requests that the Board reopen the discovery and trial periods in this proceeding for the reasons set out in its motion.

Dated this 21<sup>st</sup> day of May, 2015.

/Russell Logan/  
Russell Logan, Esquire  
Attorney for Applicant

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S REPLY IN SUPPORT OF APPLICANT'S MOTION TO REOPEN DISCOVERY AND TRIAL PERIODS** has been served on NetCloud, LLC by emailing said copy on 5/21/2015, to Morris E. Turek, counsel for Opposer, at morris@yourtrademarkattorney.com.

/Russell Logan/  
Russell Logan, Esquire  
Attorney for Applicant